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COMMISSION ON HUMAN RIGHTS

SUB-COMMISSION ON PREVENTION OF DISCRIMINATION AND
PROTECTION OF MINORITIES

Forty-third session

SUMMARY RECORD OF THE 7th MEETING

Held at the Palais des Nations, Geneva,
on Thursday, 8 August 1991, at 10 a.m.

Chairman: Mr. JOINET

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The meeting was called to order at 10.10 a.m.

ELIMINATION OF RACIAL DISCRIMINATION (agenda item 5) (continued)

(a) MEASURES TO COMBAT RACISM AND RACIAL DISCRIMINATION AND THE ROLE OF THE SUB-COMMISSION (continued) (E/CN.4/Sub.2/1991/11 and 12; E/CN.4/Sub.2/1989/8 and Add.1; E/CN.4/1991/63 and Add.1)

(b) ADVERSE CONSEQUENCES FOR THE ENJOYMENT OF HUMAN RIGHTS OF POLITICAL, MILITARY, ECONOMIC AND OTHER FORMS OF ASSISTANCE GIVEN TO THE RACIST AND COLONIALIST REGIME OF SOUTH AFRICA (continued) (E/CN.4/Sub.2/1991/13 and Add.1)

1. Mr. SACHAR, after recalling the special emotional link between South Africa and the people of India, said that most critics had sought to examine the deprivation of blacks in South Africa as if it was a mere denial of human rights to a small segment of the population. That was an incorrect perspective. Blacks in South Africa were not a minority and it was not therefore as if their problem was like that of blacks in America. South Africa belonged to blacks. They were the natural rulers of that country. The white minority had seized political, economic and social rights and had deprived the majority of the people of their legitimate political and economic share. The struggle of the blacks in South Africa therefore had to be seen as a liberation struggle, as the struggle for freedom, self-determination and control of the destiny of their own country. That qualitative factor differentiated the fight of the blacks in South Africa and emphasized not only the urgency of the problem but the need for different methodology and different remedies than the normal remedies applied for the benefit of minorities. The basic problem in South Africa would not be solved unless the blacks were able to control the destiny which was theirs by the fact of being the majority. So long as the blacks were denied their right to equality of vote and equal participation in political power and so long as hurdles prevented the achievement of political equality between blacks and whites, the situation in South Africa would continue to deteriorate. The blacks wished not only to sit at the table of power but also to have their due share which inevitably would reduce the whites to a minority. The leaders of the white minority were not willing to accept such a position and unfortunately the international community was not willing to force the whites to accept it.

2. It had been globally assumed that the sanctions against South Africa, which had been imposed as a result of worldwide resentment at the policy of apartheid, would force the South African racist regime to agree to the reasonable and just demands of the blacks. Though there had been some weakening of the South African Government, the result had not been commensurate with the hopes of those who had initiated the movement for sanctions. The real reason why sanctions had not achieved the hoped-for result was that, although on paper sanctions had been imposed, in reality various devices had been adopted by a number of countries with the result that the pressure on the South African economy had not been as great as it should have been.

3. In that connection he congratulated Mr. Khalifa on his detailed and painstaking report (E/CN.4/Sub.2/1991/13 and Add.1) which had demonstrated that although Governments had restricted direct equity investments by law,

they had permitted the existing level of investment to continue. Among the numerous examples cited by Mr. Khalifa was that of General Motors which was said to have sold its subsidiary to local management under the direction of an American executive but with the provision that the parent would return openly when circumstances permitted.

4. Other aid from abroad had continued notwithstanding the sanctions. In 1985 the South African Government had taken the step of a unilateral moratorium on the payment of the principal of short-term international debt falling due during the ensuing four months and had extended the moratorium to the end of March 1986. It had also worked out three successful agreements with its creditors in 1986, 1987 and 1989. Thus, South Africa had been able to retain its funds and to buy time in which to re-establish its creditworthiness. Moreover, South Africa apparently had not had much difficulty in getting easy credits from many multinational corporations. South Africa had also been able to evade sanctions by diverting imports and exports through third countries. South African products had been sold under false labels and with misleading certificates of origin and transformation as in the case of coal channelled to Europe through the ports of Antwerp and Rotterdam. The ban on iron ore exports had been evaded by Japan while the United States continued to import South African uranium hexafluoride on the grounds that it fell outside its ban on uranium ore-oxide.

5. The Centre against Apartheid had reported that there had been a marked increase in exports to South Africa from Germany, Japan, the United Kingdom, the United States and France. Payment for such exports would have been impossible if South Africa's major trading partners had not provided guaranteed export credits. It was therefore unfortunate that President Bush had announced the lifting of sanctions unilaterally and had merely talked on the telephone with Mr. Nelson Mandela, the undoubted and real leader of South Africa, before announcing that decision, instead of consulting him beforehand. President Bush's action might well have an escalating effect. Even in India there had been an immediate reaction in favour of opening up all avenues with South Africa including the removal of sports barriers. Fortunately that aberration had been short-lived and no one had dared suggest that the behaviour of the South African Government justified the country's acceptance into the comity of nations as a civilized democratic Government.

6. It was important to remember that there had been large-scale violence in South Africa during the previous year. Interested foreign media and parties had blamed Mr. Mandela and his party for such violence while giving a favourable account of Mr. Buthelezi. The fact that Mr. Buthelezi was a front of the South African Government to destroy the power and credibility of Mr. Mandela had been revealed in the press and subsequently Mr. Botha, the Foreign Minister, whose Ministry had provided the cash funds to subsidize those activities had said that he saw nothing wrong in such action and that he would do the same again if circumstances warranted. Nevertheless, Mr. Botha continued in office while the Ministers of Defence and Law and Order, who had also been implicated in the plot, had merely been demoted instead of being criminally prosecuted.

7. He himself would like to believe that President De Klerk and others genuinely wished to dismantle the horror of racism in South Africa, but such events did not make it easy to accept the credibility of those who were running the South African administration. Giving up political power was not easy even in a democratic system. It was almost impossible when a minority held political power by sheer force of arms. It was for that reason that constant pressure must be kept on the South African Government to dismantle the tools of racism, apartheid and armed might. It was therefore his view that there should be no immediate removal of sanctions. The Sub-Commission should continue to exert pressure for the imposition of even greater sanctions against South Africa and should not accept that South Africa had come to a point where it could be accepted as a part of the comity of civilized nations.

8. Mr. SABOIA congratulated Mr. Khalifa on yet another comprehensive report (E/CN.4/Sub.2/1991/13 and Add.1) which was one of the richest sources of information on the relationships that continue to exist between the South African white minority and the international business community as well as the degree to which economic sanctions had worked. He considered that Mr. Khalifa's mandate should be renewed although perhaps in a modified form, in order to allow him to focus more deeply on the changes which South Africa was undergoing.

9. In his view, there had been considerable progress towards the goal of dismantling the abhorrent apartheid system and such signs of change could not be ignored. Much remained to be achieved, however, not only in legal terms but also, and perhaps chiefly, in what concerned political, social and economic reforms. Previous speakers had pointed to the serious discriminatory and arbitrary practices that still restricted the freedom and activities of members of the black majority. It must be stressed that an essential condition for assessing the degree of success of the current process of change must be the granting of full political rights to the black citizens of South Africa and allowing them to participate properly in the political process. The remaining numerous political prisoners must also be released.

10. Although in his view the process of eliminating apartheid was irreversible, international pressure must be maintained and it was too early for sanctions to be lifted. In order to provide positive incentives and to preserve the economy of the country, sanctions should be continuously reviewed over a period of time in the light of the rate of progress towards the abolition of apartheid and in the political negotiations with all interested political parties. Close monitoring of the situation in South Africa was therefore necessary. As a body of experts, the Sub-Commission could, in coordination with other United Nations bodies, have a useful role to play in such a monitoring process.

11. With specific reference to item 5 (a), he shared the concern of other members regarding the re-emergence, sometimes under new forms, of racism and racial discrimination. In that connection, the Swiss press had, that very morning, reported new criminal acts against asylum seekers.

12. After several decades of United Nations efforts, it was sad to see how persistent the phenomenon of racism could be and it was perhaps even more disquieting to observe the reappearance of racism, sometimes in its ugliest

and most violent forms, in countries where access to education and culture would hopefully have encouraged more enlightened attitudes. Racist attitudes and acts seriously affected the situation of migrant workers, refugees and aliens in general, whose human rights were frequently restricted or denied.

13. New forms of racism sometimes came disguised under new terminology, abandoning the discredited theme of inequality in favour of an "ideology" which emphasized the value of diversity, stressing the importance of preserving national, cultural and ethnic peculiarities. Such an attitude, taken to its extreme limits, became hostile to interracial, interethnic or cross-cultural integration. It was easy to see how closely interlinked with other current manifestations of intolerance and discrimination racist tendencies could be.

14. Economic factors were also important in explaining, although never in justifying, the current resurgence of racism in the developed world. The lack of economic prospects in most of the countries of the South had led to mounting emigration of people from those countries in search of better opportunities elsewhere. Similar pressures had brought millions of immigrants to the Americas in the past in a movement that had been very successful in many respects. It so happened, however, that current South-North migration did not seem to enjoy the same acceptance.

15. It was therefore possible to perceive how closely interrelated and interdependent human rights were. The denial of the right to development, in its national and international dimensions, was undoubtedly one factor in the upsurge of racist and xenophobic feelings in some developed countries and might explain why, even after the fall of the Berlin Wall, other walls were being erected to prevent the free flow of people.

16. In conclusion, he supported the suggestions contained in document E/CN.4/Sub.2/1991/11 on ways and means necessary to increase the effectiveness of United Nations action to combat racism and racial discrimination. He also supported most of the comments made by other members of the Sub-Commission in that connection.

17. Mr. EIDE, referring to the forthcoming joint meeting with CERD, considered that that meeting would be of great importance and that the Sub-Commission should prepare itself to make the best use of the opportunity thus provided. In his view the agenda should, first, comprise an exchange of views on emerging problems and trends. There should also be a discussion on protection from racial discrimination in relation to other human rights. He agreed with the substance of what Mrs. Warzazi and Mrs. Ksentini had said and the problems they had pointed to; there was a need to explore the whole problem as it was very serious. For example he had heard from representatives of Governments of Eastern European countries that they had found it difficult to interfere with freedom of expression, even of a very racist or anti-Semitic character, because of previous restrictive attitudes. It was a serious problem and CERD had been doing interesting work in that connection. As a third point, the joint meeting should discuss the question of the effectiveness of international instruments and, in particular, why so few States had acceded to article 14, even those States which had endorsed further adherance to that article by others.

18. He considered that the mandate of Mr. Khalifa should be continued and that the topics covered should be broadened to take account of the changes which had occurred.

19. Mrs. WARZAZI said that Mr. Khalifa's outstanding analysis in documents E/CN.4/Sub.2/1991 and Add.1 had doubtless provided a salutary shock for all who had thought that the struggle against apartheid could finally be relaxed.

20. President De Klerk had undeniably been courageous in embarking on the dismantling of apartheid in the face of vigorous opposition from his own party, and the international community welcomed the numerous measures he had taken including the liberation of Nelson Mandela and the abolition of the legislation that underpinned apartheid. The ANC had shown a remarkable spirit of dialogue in announcing that it was suspending all armed action.

21. Attitudes had changed: for instance, the Reformed Church, which had always supported apartheid, had said that racial discrimination was a crime against the South African people. It was therefore not surprising that with so many changes some people should have become optimistic, indeed euphoric. However, optimism was not justified while many political prisoners were still in jail, refugees were still exiled and there was no prospect of changing racial classification until a new constitution was adopted. Apartheid would continue until the 30 million black inhabitants of South Africa had the right to vote. The ANC's demand that the tricameral Parliament should be dissolved and that a new interim government should be set up had been categorically rejected. Sanctions should therefore be lifted only when those demands were taken into account. In that regard the ANC had shown flexibility: at its National Conference it had suggested that sanctions should be lifted in three stages. The last stage would be the raising of the embargo on oil and arms as soon as a new constitution was promulgated, and elections based on universal suffrage were held. It was therefore only to be expected that the international community should continue its pressure on South Africa.

22. Mr. Khalifa's assessment of the situation might have seemed rather severe. But it was much wiser to stay calm than to become over-enthusiastic about the situation in South Africa. Despite the tremendous progress achieved, the position of the Azanian people was still precarious. The continuing violence and the latest revelations about the assistance provided by ministers, members of the police force and security service in South Africa to Inkatha were a serious obstacle to the preparatory discussions for a multi-party conference. Surprisingly, some experts on the Sub-Commission had attempted to dissociate President De Klerk from his ministers, police and security forces, while others considered that those reactionary forces bore full responsibility for the violence between ANC and Inkatha. She was inclined to give Mr. De Klerk the benefit of the doubt for it was not impossible that retrograde forces were trying to thwart his new policy. Although reactionary forces had deliberately supported Inkatha, she could not agree that the South African authorities bore sole responsibility for the violence. Inkatha could not be absolved of the crimes that it was committing against the people of Azania.

23. An independent group of experts requested by the Governing Body of ILO to monitor the implementation of sanctions against apartheid had concluded that the South African economy had been seriously affected by international financial sanctions. Between 1985 and 1989 some $40,000 million had been moved out of South Africa. It was therefore easy to see why President De Klerk had decided on a new policy for South Africa.

24. It would be unwise to lift sanctions before the process was completed. The terrible suffering of the Azanian people would have been in vain if the international community did not fulfil its mission of releasing 30 million slaves from the yoke of apartheid.

25. She therefore supported the extension of the mandate of the Special Rapporteur who was making a valuable contribution on behalf of the Sub-Commission to the ending of an abhorrent regime.

26. Mr. ALFONSO MARTINEZ recalled that the previous year Mr. Khalifa had warned the Sub-Commission of new forms of racial discrimination and xenophobia in the world. The so-called new world order had brought with it, inter alia, an increase in such developments. The countries of the third world were becoming poorer as trade restrictions increased and investment decreased, and consequently many of their citizens were seeking work in the developed market economy countries where they were finding an alarming increase in racism, xenophobia and intolerance. He agreed with the concerns expressed by other members in that regard.

27. The outline of ways and means necessary to increase the effectiveness of United Nations action to combat racism and racial discrimination by the Secretary-General (E/CN.4/Sub.2/1991/11) suggested that new expressions of racism should be analysed within the context of the circumstances affecting vulnerable groups. Invisible walls were erected by host societies against migrant workers who, because of the pressures created by the free market economy, had to seek new horizons. The Sub-Commission could play an important part in investigating such trends and in formulating recommendations to assist vulnerable groups facing contemporary forms of racism and racial discrimination.

28. He agreed with the recommendation in paragraph 10 of document E/CN.4/Sub.2/1991/11 that the Sub-Commission should consider updating the special study of racial discrimination prepared by the Special Rapporteur, Mr. Hernán Santa Cruz in 1976.

29. In connection with document E/CN.4/Sub.2/1991/12, he agreed that, although few Governments had responded to the Sub-Commission's request in resolution 1990/2, the Secretariat should have provided a more substantial document.

30. He congratulated Mr. Khalifa on his updated annual report (E/CN.4/Sub.2/1991/13 and Add.1). Clearly apartheid was alive and healthy in South Africa. The Government of that country had a two-fold policy: while taking measures such as freeing Nelson Mandela and abrogating certain laws, it was not taking any real steps to eradicate apartheid. The black and coloured population still had no guaranteed civil and political rights or economic

opportunity. One insidious result of the two-fold policy was the violence instigated by the Government in many parts of the country, as had been demonstrated by the recent publication of the links between the Government and Inkatha and the fact that the murders and disappearances of anti-apartheid militants were to be investigated, not independently, but by the governing National Party itself.

31. Mr. Khalifa's analysis of the economic situation in South Africa was particularly interesting. His report drew attention to the fact that transnational companies were actually helping to maintain apartheid in South Africa by their policy of limited disinvestment, and the report made pertinent remarks about the reduction of direct investment. It also analysed the weaknesses of the South African economy and the measures adopted by the Government to cope with them. As explained in paragraph 43 of the report, the international capital market had rescheduled South African debts, thus considerably easing the pressure on the Government.

32. The report dealt with the measures adopted by South Africa to overcome the trade sanctions against it. Some experts, including Mr. Treat, had already mentioned the subject of sanctions. His own country, Cuba, had been subjected not only to sanctions but to an implacable 30-year economic blockade, and he therefore realized the extent to which sanctions affected the whole life of a country. The United States of America had adopted sanctions against Cuba in 1960-61 and they were still in force, whereas it had taken 15 years to impose sanctions on South Africa and the Executive had raised them very quickly.

33. According to Mr. Khalifa's report, the United States and the United Kingdom each had more than 1,000 companies that still traded with South Africa and thus continued to breathe life into the apartheid regime.

34. In conclusion, he agreed with those who argued that sanctions should not be removed until the indigenous population of South Africa had acceded to self-determination and real democracy.

35. Mr. TREAT pointed out to Mr. Sachar, who had indicated that President Bush had not consulted Mr. Mandela before lifting sanctions, that although Mr. Mandela was highly regarded in the United States, for a President to consult with a non-elected official rather than with the elected officials of a country, despite his disapproval of their policies, would be a violation of normal diplomatic protocol.

36. He welcomed many of Mr. Alfonso Martinez's comments but believed that there were few parallels in the sanctions against South Africa and those against other countries. It was perhaps not always appreciated that President Bush, in lifting United States sanctions, had been responding to a Congressional mandate.

37. Mr. SACHAR observed that he had made his statement on the basis of a newspaper report in which it was stated that the President was asked if he had consulted Mr. Mandela before removing sanctions. He was reported to have spoken to him by telephone before announcing the decision. His grievance was that that was not enough.

38. Mr. ALFONSO MARTINEZ, replying to Mr. Treat, emphasized that he had not questioned the constitutional authority of President Bush to take the decision on sanctions but only that the decision to impose sanctions on Cuba had been taken at the initiative of the Executive and not the Congress. It was also at the initiative of the Republican Executive that the blockade against Cuba had recently been strengthened.

39. Mr. WATANABE (World Council of Churches) said that the Commission on International Affairs of his Council wished to raise the increasing incidence of racial discrimination against migrant workers, refugees and other foreigners throughout the world.

40. The Council and its 317 member Protestant and Orthodox churches in more than 100 countries had welcomed the adoption by the General Assembly of the United Nations of the International Convention on the Protection of the Rights of all Migrant Workers and their Families. Prompt ratification by States would provide necessary protection to that vulnerable group of people.

41. The situation in Japan was severe, but little known. In 1991 the World Council of Churches had sent an international mission to that country at the invitation of the National Christian Council in Japan to investigate the treatment of foreign migrant workers. Government policies and racial sentiment in Japan towards foreigners seemed to reflect attitudes of racial superiority. Immigration policies for migrant workers were explicitly justified by the need to protect the homogeneity of Japanese society. However the expanding Japanese economy was increasingly dependent on the use of foreign migrant workers, and as a result the laws applying to them were extremely restrictive and discriminatory, in clear violation of several international human rights instruments.

42. The present Japanese immigration law recognized 28 categories of residence qualifications, but work permits were granted for restricted occupations and residence for the purpose of general labour was not permitted. Foreign workers were forced either to overstay and work in unskilled jobs or to reside as entertainers, students or technical trainees and to work outside their visa qualifications. Their number was not known even to the Immigration Bureau of the Ministry of Justice but was said to exceed 250,000. In those conditions, discrimination and human rights violations were rife.

43. The most widespread violation of foreign workers' rights was non-payment of wages by employers who took unfair advantage of the "illegal" status of their workers. Foreign workers appealing to the Labour Standards Inspection Office ran the risk of being reported to the Immigration Authority and deported for violating the immigration law.

44. In addition many labour incidents occurred with foreign workers on job sites that were dangerous. Because of the illegal status of such workers, employers were reluctant to apply for labour accident insurance. Governmental safety guidance for employers was impossible to put into practice because of the Government's policy of clearing out illegal workers.

45. There was widespread violation of the rights of women. One Thai woman had been sold for $20,000 by international syndicates and brought to Japan to be forced into prostitution. When such women, of whom there were many, sought the help of the police or social welfare centres, they were deported for violating the immigration law and saddled with debt on their return home.

46. Illegal recruiters controlled employment and reaped great profit from trafficking in persons. The Government Employment Authority gave priority to excluding foreign workers and had no effective strategy for preventing illegal employment transactions.

47. Because of their unauthorized status, most foreign workers were not covered by insurance, and Japanese medical fees were too high for them to pay.

48. In the case of children born to foreigners who were in Japan illegally registration brought the danger of deportation, and most of the marriages of foreigners who stayed longer than permitted were not legalized.

49. The World Council strongly urged the Sub-Commission to call on the Member States of the United Nations to ratify and implement the International Convention on the Protection of the Right of all Migrant Workers and their Families. It urged that increased attention be paid by the Sub-Commission to the question of the violation of the rights of migrant workers, refugees, asylum seekers and other vulnerable foreigners as a new form of racial discrimination. The case of Japan might well merit specific attention.

50. The Council commended the Sub-Commission's resolution 1990/2 requesting the Secretary-General to prepare an overview of current trends of racism, discrimination, intolerance and xenophobia affecting such groups as migrant workers and other vulnerable groups, which it hoped could be prepared for the following year.

51. Mr. EYA-NCHAMA (International Movement for Fraternal Union among Races and Peoples) thanked Mr. Khalifa for having once again pointed out the complicity between some multinational corporations and the odious regime of apartheid in South Africa and for his defence of the human rights of the majority of the population of that country. Blacks had been excluded from the political life of South Africa since 1910, and particularly since 1948, when Mr. Malan, the ideological friend of Adolf Hitler, Benito Mussolini, Oliveira Salazar and Francisco Franco, had implanted in South Africa what Adolf Hitler had sought to impose in Europe - the division of society on the basis of "superior" and "inferior" races.

52. In September 1989, as a result of the struggle waged by the majority of the South African people and by anti-racist forces throughout the world, Mr. De Klerk, another South African of Mr. Malan's National Party, had stated that he wished to abolish the apartheid regime, provoking an institutional and moral crisis among the white minority. The white-minority Parliament had just abolished the apartheid legislation which it had approved since 1948, an action for which it was to be commended. However, the repeal of that legislation did not end the oppression of the majority of the population, which was struggling to exercise its right to self-determination. The United Nations would go down in history as the prime mover in decolonization

in the second half of the twentieth century. Its experts on the right to self-determination considered that the right had two aspects, an external aspect and an internal aspect. Only when the South African people as a whole exercised its right to self-determination would it be possible to speak of the end of apartheid.

53. Of the three countries which had officially established apartheid in southern Africa, two - Zimbabwe and Namibia - were currently in control of their own destinies. The International Movement for Fraternal Union among Races and People urged investors everywhere to invest their funds in those two countries and to maintain the sanctions against South Africa, as Mr. Khalifa had recommended, until the whole population of that country was in a position to determine its destiny.

54. The history of the national liberation struggle showed that in the course of the struggle part of the oppressed population usually sided with the oppressors. There had been collaborators with Hitler in the Second World War. The same thing was happening in South Africa in the case of the Inkatha party led by Mr. Buthelezi, who had accepted and supported the system of apartheid, which he had not believed would one day be abolished. However, when he had realized that the anti-apartheid movements were about to succeed, he had begun to massacre the population. It was inconsistent that the Government should finance Inkatha's terrorist activities and, at the same time, state that it wished to abolish apartheid. Propagandists for apartheid in South Africa had interpreted Mr. Buthelezi's actions as a struggle among blacks, overlooking such historical precedents as the Spanish Civil War and the Second World War.

55. The International Movement for Fraternal Union among Races and Peoples urged the Sub-Commission to renew Mr. Khalifa's mandate so that he could continue to work for the total elimination of apartheid.

56. The Governments of the African States whose citizens were working in Europe were partly responsible for the humiliation suffered by their migrant workers, whom they had taken no diplomatic or political action to protect. All States had the right to prevent the entry of aliens into their territory. If Africans had problems in entering Europe, it would be only logical that African Governments should prevent Europeans from entering Africa. Oddly enough, while African immigrants in Europe were being persecuted, European immigrants in Africa were living in paradise. Moreover, there were, for example, more Europeans in Gabon than Gabonese in Europe, and more Europeans in Côte d'Ivoire than citizens of Côte d'Ivoire in Europe. The right solution would be to add up the total number of European immigrants in Africa and of African immigrants in Europe and for Governments then to establish reciprocal quotas. The conditions in which African workers found themselves in Europe were similiar to slavery. European firms recruited workers in north and west Africa and took them to Europe, paying them very low wages. At the same time the political representatives of those firms used the presence of the African workers in order to win elections. The Governments of the countries of north and west Africa were urged to find a solution, as soon as possible, to the slavery-like conditions experienced by their citizens in Europe.

57. Mr. KIRKYACHARIAN (Movement against Racism and for Friendship among Peoples) noted that in many countries racism was increasing, especially against migrant workers from Africa and Asia. At the most recent session of the Commission on Human Rights he had stated that there was a serious danger that, in Europe in 1993, there would be enormous pockets of non-citizens, constituting an obvious threat to democracy. Spokesmen for political and ideological racism liked to describe the workers as "non-European aliens", which was a discreet way of linking skin colour to an inferior social status. Since then the situation had in no way improved, and in the pre-election climate obtaining in France the immigration problem was just one stake in the political debate. The problem was never defined, but it was really a problem of non-citizenship.

58. In that connection, no situation was more enlightening than that of the country of apartheid, the model racist society of the contemporary world. The media often took the view that apartheid had already been abolished, and Governments had declared themselves in favour of lifting the sanctions against South Africa as a means of strengthening the position of Mr. De Klerk and of helping the present regime to move on to a non-racial democracy. Nevertheless, the release of political prisoners was only just beginning, and the abolition of racism in sport had made so little progress that participation in the 1992 Olympic Games might be jeopardized. The shameful reservations known as Bantustans had not been dissolved, and Africans could still be deported to them. Mr. Buthelezi's Inkatha Party was also being scandalously financed. Everyone, especially Frenchmen, knew that what was involved was an assiduous, classical strategy of the colonial Powers: without the benevolent white Government, there could only be savagery. South Africa was therefore still under the apartheid regime, and the premature lifting of sanctions could be explained only by reasons that had nothing to do with the transition.

59. But was there a transition, and what minimum conditions were required for it? The transition might be one to a republican regime based on the equality of citizens, so different from the present situation that a new constitution would be required. However, such a constitution could be adopted only with the agreement of all the social, political and spiritual forces as to its content, or at least as to its form. The equality of citizens was obviously based on universal suffrage, but so far no governmental authority in South Arica had clearly stated its position on that principle. That was easy to understand, since a State based on different principles could not, without committing suicide, suddenly declare that it was in favour of equality. There had to be a clean break, and the present State could facilitate such a break only by agreeing to a transitional arrangement. In other words, a Constituent Assembly had to be elected, but even that had to be preceded by two important political innovations - the formation of an interim government and the establishment of a committee of experts by agreement between the opposing forces. All important moments in the history of democracy had witnessed that kind of transition, and General de Gaulle had been guided by such models of common sense and juridical rectitude. It would therefore be irresponsible to reject such proposals on the ground that they were based on those of the African National Congress. If a way out was to be found, the proposals must be accepted by the white Government. Otherwise, it would be clear that the Government was thinking of another solution involving the resignation of 20 million poor blacks and the acceptation to a few crumbs of dignity by an

élite still to be formed. Such a model was incompatible with human rights. A nited, non-racial and democratic South Africa required real freedom and equality. He urged the Sub-Commission to declare itself clearly in favour of the acceptance of those principles.

60. Ms. MENICI (International League for the Rights and the Liberation of Peoples) said that since its foundations her organization had worked for the democratization of South Africa and was convinced that, in the present very sensitive period, greater attention should be paid to what was happening in that country, where, despite many optimistic declarations, many obstacles to the eradication of apartheid still existed. The South African Government's recent declarations concerning its will for political change and certain concrete steps taken by the same Government towards abolishing some of the legal bases of the apartheid system raised the hope that the liberation of Nelson Mandela could become a prelude to the liberation of all black South Africans from the jail of apartheid. In fact, however, the internal situation in South Africa had changed neither deeply nor substantially and the democratization process still seemed very fragile and full of uncertainties. The fundamental pillars of apartheid remained, an interim government had not yet been formed, and there was no recognition of the basic principle of democracy - one man, one vote. Furthermore, the Government had confessed its involvement in fomenting violence between Inkatha and African National Congress groups, thus destabilizing the country, while the attitude of the police did not seem to have changed. Killings continued, hundreds of political prisoners remained in jail, thousands of political opponents were prevented from returning to South Africa, and restrictions on freedom of thought and the right of expression remained, while the social and economic rights of millions of black South Africans were denied, as had been the rights of the hundreds of thousands of people deported under the Land Areas Act and Groups Areas Act now repealed.

61. At a time when stronger pressure from the international community was needed in order to put an end to a system which was in itself a crime against humanity, some Western Goverments, despite repeated appeals from the political organizations of black South Africans, had recently decided to lift sanctions against South Africa. They were the same Governments that, in other situations and despite United Nations reports and the inquiries of humanitarian organizations, persisted in their will to maintain sanctions that could only bring starvation and death to thousands of children and to the weakest and poorest members of the civilian population. The Special Committee against Apartheid had recently affirmed that the objective of a complete democratization of South Africa could be achieved by maintaining pressure and that a premature lifting of pressure through the elimination of sanctions and the establishment of close relations with South Africa would be counter-productive. The International League for the Rights and Liberation of Peoples therefore urged the Sub-Commission, in accordance with its resolution 1990/10, to condemn the premature lifting of sanctions and to call for the maintenance of comprehensive and mandatory sanctions against the De Klerk Government.

62. Mr. BARSH (Four Directions Council) noted that over the past year there had been some dramatic changes in the role played by human rights in the United Nations system. In April 1991 the Security Council, in its resolution 688, had used violations of human rights as a legal justification,

under the Charter of the United Nations, for authorizing military intervention in northern Iraq. In May, UNDP had published a list of 88 countries in rank order according to a so-called "human freedom index", and a few weeks before the Sub-Commission's present session the World Bank had published a statistical table purporting to prove that respect for human rights stimulated national economic growth. In November 1991, the Committee for Development Planning would launch a study on links between human rights and development. Human rights had suddenly become popular.

63. The sudden emergence of human rights as a "mainstream" issue raised two interrelated questions. The first was whether the standards and methods adopted by different international bodies were consistent with one another. That would be taken up in his organization's intervention under item 3 of the agenda. The second question was whether the traditional human rights programme - in other words, the Sub-Commission, the Commission for Human Rights, the Centre for Human Rights, and the treaty bodies - were prepared to play an effective role in shaping a human rights strategy for the United Nations system as a whole.

64. His organization was not optimistic. While other international bodies were, rightly or wrongly, taking action in particular cases, the human rights programme was still engaged in talk. While others published global lists of violators and violations, the Sub-Commission and the Commission struggled every year to name just a few. And while others viewed human rights as part of a larger process of economic and social change, the human rights programme seemed wedded to the idea that violations were the result of psychological and personal factors.

65. A case in point was the Secretary-General's note on increasing the effectiveness of United Nations action to combat racism and racial discrimination (E/CN.4/Sub.2/1991/11). The resolution requesting that report had expressed the view that racism was intensified by conflicts over economic resources and therefore must be fought, at least in part, by economic measures. After acknowledging that analysis of the problem, the Secretary-General's report proceeded to make recommendations which did not touch at all upon the problem of economic resources. On the contrary, it recommended measures to address bad attitudes and ignorance: studies, seminars, educational materials and publicity. There was a section on coordination, but it dealt only with the possibility of coordinating United Nations information activities.

66. That was a little behind the times. Both UNDP and the World Bank were already engaged in a heated debate with developing countries over political conditionality, while the Committee for Development Planning advocated the approach of additionality for activities that promoted democracy. The United Nations had already used the human rights aspects of an ethnic conflict to justify military intervention in one country, and the Security Council was due to take up a proposal for a second intervention of that kind, in Yugoslavia. Could the human rights programme do nothing more than write further studies and convene seminars? What role should it play?

67. The Four Directions Council considered that, first, human rights bodies had a duty to ensure consistency. There was currently a real danger of different international institutions applying different human rights standards, such that a country rated highly by one agency might be given a low rating by others. That might lead to contradictory action by different United Nations bodies.

68. Second, human rights bodies had a responsibility with respect to the fairness of the process. To the extent that agencies such as UNDP were beginning to classify countries' human rights performance, and possibly to use that classification for policy purposes, it was important to ensure that such classification decisions were fair and neutral. That could result only from a process of information-gathering that was truly uniform and global and from a decision-making process based on clear, transparent and objective criteria. The working methods of human rights bodies had always been rather qualitative and inconclusive, while other parts of the United Nations system, such as UNDP, now purported at least to be quantitative and thus more precise. But was that precision genuine?

69. Third, United Nations human rights bodies should watch the United Nations itself, both with respect to the impact of its operational activities on the enjoyment of human rights and with regard to respect for the rights and dignity of staff members. The United Nations could not hope to promote a "culture of human rights" if its own staff members were subject to discrimination or otherwise mistreated. Internal monitoring had been strongly recommended by the Global Consultation on the Right to Development, but it had never been implemented.

70. Fourth, human rights bodies should develop a standardized and more objective central monitoring capability, one that was truly global and sought comparable information for all countries. If that was not done by the Sub-Commission, it would certainly be done by other United Nations bodies. In practical terms, if the human rights programme did not put its experience to work to develop a sound global monitoring database, the United Nations would end up with one or possibly more monitoring databases which did not benefit from its experience.

71. Fifth, the Sub-Commission in particular should engage in more systematic, country-by-country analyses in all countries, for the benefit of other United Nations bodies. Human rights violations could be both a cause and an effect of other economic and political conflicts. Effective action by international agencies must be based on an understanding of the specific dynamics of each national situation. United Nations economic bodies routinely published "country studies" as a basis for strategic planning. If planning an effective United Nations response to a racial conflict in an economic crisis in a country required structural analysis of that kind, how could the United Nations be expected to respond to a human rights crisis without any analysis?

72. In other words, the human rights programme, and particularly the Sub-Commission, should play the role of a diagnostician. Human rights bodies simply did not have the tools to make significant changes within countries, but they could guide the tools used by other parts of the international system.

73. If racial and ethnic conflicts were frequently intensified by economic competition, an important tool in preventing conflict was the development process within each State. Regionally balanced development that reached all ethnic groups counteracted a build-up of antagonisms that could tear apart even a relatively rich and free country. Thus the development resources of the international system should be used to promote more balanced development as a preventive measure rather than punishing Governments after conflicts arose by scolding them or by withholding resources. Yet in the United Nations the regional distribution of wealth within countries was not routinely examined by either economic or human rights bodies.

74. The exception to that pattern was South Africa. Mr. Khalifa's reports (E/CN.4/Sub.2/1991/13 and Add.1) had been exceptional in that they examined internal economic structures and the external economic and political institutions that sustained them. His reports were diagnoses, not mere catalogues of the symptoms. Unfortunately, the human rights programme had not been able to use them for advocacy to other United Nations agencies. They had been discussed in the Sub-Commission and for all practical purposes used merely as a justification for resolutions critical of the South African regime.

75. Unlike most of the countries which came under criticism in the Sub-Commission, the United Nations was held back more by a lack of political will than by a lack of resources. The United Nations system now wielded considerable economic, and even military, power through agencies that were giving increasing attention to human rights. The issue was one of using the existing resources and power in a fair and effective manner to encourage democratic development.

76. Mr. KHOURY (Observer for the Syrian Arab Republic) paid a tribute to Mr. Khalifa for the efforts he had made to unmask all kinds of racial discrimination in South Africa and the harmful effects for the South African people of the external support given to the Government in Pretoria. The pressure brought to bear had indeed proved to be effective, although racial discrimination could persist in South Africa for many years to come. Consequently, the Sub-Commission must remain firm. Sanctions had been lifted prematurely, and the South African Government was disseminating many lies. Syria had always stood by the South African people in its struggle against apartheid and had complied with all United Nations resolutions concerning the elimination of racism and racial discrimination. It urged transnational corporations to stop all trade with South Africa. Israel's close cooperation with South Africa in the military field could only serve to prevent the advent of democracy for the black majority. A number of changes had recently been made as a result of the struggle waged by the valiant anti-apartheid forces in South Africa, whom all peace-loving peoples should support, but the political prisoners in jail still had to be released.

77. Mrs. GABR (Observer for Egypt) said that the present situation made it necessary to carry out a new analysis and to reach new and different conclusions on a topic which the Sub-Commission had studied for many years. After all those years of study and debate, the Sub-Commission should seek to identify the current possibilities for progress and the requirements for addressing the issue. The Sub-Commission was approaching the Third Decade for Action to Combat Racism and Racial Discrimination and the preparatory meetings

for the 1993 World Conference on Human Rights and it should focus on activities to ensure their success. In its endeavours it should be guided by the guidelines and recommendations in the note by the Secretary-General contained in document E/CN.4/Sub.2/1991/11. The joint meeting with CERD was a step towards further coordination and innovation.

78. In recent years, there had been changes in the legislative structure with regard to apartheid in South Africa, with an attempt at political dialogue with black leaders. She welcomed that progress and hoped that the objective sought by all could be achieved, namely, a proper democratic life through attaining the right to vote, equal voting rights, the release of all political prisoners, the equal enjoyment of the economic resources of the country and, finally, social peace and harmony. The Government should assume its responsibility to assure security for all citizens and put an end to confrontations among black factions. With regard to the negative aspects of the system of government in South Africa, she wished merely to emphasize that the road to the political, economic and social changes that were needed would be long and difficult. In his introductory statement, Mr. Khalifa had highlighted those negative aspects and had called for the continued application of economic sanctions and the continued boycott of the South African Government. The Special Rapporteur should continue his activities with the assistance of the economists he needed and he should extend the scope of his studies in the context of the new developments in the situation in South Africa.

79. Mr. ILKAHANAF commended Mr. Khalifa's informative and extensive report (E/CN.4/Sub.2/1991/13 and Add.1), which was lucid both in form and substance. He joined other speakers in recommending that Mr. Khalifa's work should be continued until apartheid was dismantled. The guidelines and recommendations given by the Secretary-General in his note (E/CN.4/Sub.2/1991/11) had been extremely useful; in that connection he referred particularly to paragraphs 6, 8, 10, 11, 12, 13 and 14.

80. Apartheid, in his view, was still alive and well. There had been positive events in South Africa, including the release of political prisoners, the abolition of some apartheid laws and especially a change of attitude of some of the leaders of the South African regime towards the rights of the black majority. In 1989, he, Mr. Ilkahanaf, had said that maybe during Mr. De Klerk's term of office, apartheid would be dismantled. That remained to be seen; but Mr. De Klerk was trying his best under the circumstances to ensure that the rights of blacks were to a certain extent respected.

81. The negative aspects of recent events included the fact that a majority of political prisoners had not been released and that blacks were being set against blacks, with one group being financed by the security forces to stand in the way of the struggle against apartheid. The lack of progress of political negotiations was also a serious setback: Mr. De Klerk had promised to negotiate with the blacks, but negotiations had not been forthcoming. In comparing negative and positive aspects it could be seen that there had been little positive progress towards dismantling apartheid. The security forces were a very serious obstacle; unless the blacks were given the opportunity to be employed in the security forces that were used to impose apartheid and those forces were completely overhauled, apartheid would continue.

82. He agreed fully with everything Mrs. Warzazi and Mrs. Ksentini had said about the treatment of migrant workers and other groups. Lastly he paid a tribute to the people of South Africa in their struggle against apartheid and recommended that the pressure against apartheid should be continued at the national, regional and international levels.

83. Mr. KHALIFA said that he had received a constant flow of rich input of advice and ideas from his colleagues. He now realized that there was a difference of views in the Sub-Commission on agenda item 5. Nevertheless, the Sub-Commission was not divided: it knew what it wanted and what the civilized world community wanted from it. The members differed only in sizing up the situation and in their place on a continuum ranging from optimism to pessimism. It was a sign of great integrity that when an expert on the Sub-Commission spoke it was impossible to tell which country that expert came from. Mr. Treat had been independent-minded in honestly cautioning the Sub-Commission against impatience and high expectations; he was undoubtedly the leader of the optimistic wing of the Sub-Commission. Mr. Posada, Mr. Sadi and others also belonged to optimists. According to that trend of thought, the positive steps taken by South Africa should not be totally ignored and were irreversible. Mr. Sadi had said that once the genie had sprung from the bottle he would not go back in, forgetting perhaps that there were many genii in many bottles. Some members of the optimistic school would prefer to give South Africa a break and not to wreck maliciously the South African economy which ultimately would be the property of all South Africans. Obviously he did not share that benevolent view.

84. He had underscored the attitude of the United States Government only because that Government had been a pioneer in making sanctions hold for a certain length of time; his report had made that clear. He had a feeling of disappointment because he thought things could have been managed in a better way. Mrs. Palley had warned against ignoring the complexities of the situation and Mr. Heller had said that the Sub-Commission should not ask unrealistically for the abolition of apartheid in South Africa overnight or over a year or perhaps a decade. He entirely agreed; he only wished to make sure that South Africa was sincere in the course on which it had embarked.

85. Some questions remained. First, was the present a good time to lift or ease sanctions? Most of the speakers had considered such a move premature. Mrs. Ksentini had seen eye to eye with his own analysis. Mrs. Attah, while going along with the main ideas of the report, considered, together with Mr. Sadi, that the Sub-Commission should examine the impact of lifting sanctions and whether it would really improve the life of black South Africans. On such a question the assistance of technical experts-economists was needed, and he thanked the Under-Secretary-General and the Secretariat, for their efforts to provide him with that kind of assistance. He hoped that a constant exchange of views would maximize the effect of that much-needed assistance in economic monitoring, analysing and synthesizing the problem. The second question was whether developments in South Africa were irreversible. He personally thought they were not; others had more faith than he in South Africa. The third question was whether his mandate should be extended. The entire membership of the Sub-Commission had been kind enough to renew their confidence in him and to ask him to stay on; he would be honoured to do so.

86. Although Mr. Eide was not happy with the expression "monitoring apartheid in transition" he recommended its retention, since apartheid had not disappeared and the transition would take a long time. There would come a phase which could be called the post-apartheid era, but it had not yet arrived.

87. With regard to Mr. Van Boven's comments, it was a sad situation that the United Nations had agreed to do business with the Société de Banque Suisse, which was on the list of collaborators with South Africa. He recalled a similar case when the time had come for the United Nations to extend the contract of Thomas Cook. He had personally confirmed that Thomas Cook was doing business with South Africa and had officially recommended that the United Nations should not extend its contract, but sadly to no avail.

88. In conclusion he thanked all the members of the Sub-Commission as well as the representatives of Governments and non-governmental organizations for their support.

The meeting rose at 1.05 p.m.

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SUB-COMMISSION ON PREVENTION OF DISCRIMINATION AND
PROTECTION OF MINORITIES

Forty-third session

SUMMARY RECORD OF THE 8th MEETING

Held at the Palais des Nations, Geneva,
on Friday, 9 August 1991, at 10 a.m.

Chairman: Mr. JOINET

later: Mrs. BAUTISTA

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Elimination of all forms of intolerance and of discrimination based on religion or belief

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The meeting was called to order at 10.20 a.m.

ELIMINATION OF RACIAL DISCRIMINATION (agenda item 5) (continued)

(a) MEASURES TO COMBAT RACISM AND RACIAL DISCRIMINATION AND THE ROLE OF THE SUB-COMMISSION (E/CN.4/Sub.2/1991/12; E/CN.4/Sub.2/1989/8 and Add.1; E/CN.4/1991/63 and Add.1) (continued)

(b) ADVERSE CONSEQUENCES FOR THE ENJOYMENT OF HUMAN RIGHTS OF POLITICAL, MILITARY, ECONOMIC AND OTHER FORMS OF ASSISTANCE GIVEN TO THE RACIST AND COLONIALIST REGIME OF SOUTH AFRICA (E/CN.4/Sub.2/1991/13 and Add.1) (continued)

1. Mr. AKTAN (Observer for Turkey) said that racism was fast becoming one of the most important human rights abuses, but strangely it did not appear to be receiving the attention it deserved from the international community. Only three Governments and one non-governmental organization had responded to the Secretary-General's request in Sub-Commission resolution 1990/2, inviting comments and relevant information for the preparation of an overview of current trends of racism, discrimination, intolerance and xenophobia against vulnerable groups in the world.

2. Racism was in essence not entirely suitable for a standard-setting approach. People could not be told what to do in terms of racism, and even education might be of limited value in that context. The painful experiences of the past seemed to be forgotten after a single generation, and reminders aroused transient feelings of abhorrence. That might explain the international community's resistance to taking up the subject and facing it seriously.

3. There was an appalling confusion as to concepts in the various documents and contributions to seminars. There was no adequate definition of racism, racial discrimination, racial hatred or even race. Sub-Commission resolution 1990/2 mentioned racism, racial discrimination, prejudice, intolerance and xenophobia as if they defined different phenomena, whereas in another paragraph of the resolution the same concepts were stated to be the manifestations of racism. Apartheid and slavery were treated as the two main practices of racism in all the papers. There was thus no coherent conceptual framework for racism.

4. Apartheid was the most important form of racism and because of its nature independent treatment of it was warranted. Slavery could certainly be a form of racism, but the profit motive might overcome racial hatred, which was an indispensable ingredient of racism.

5. Neither ethnic strife, including terrorism, nor war would automatically create racism and racial hatred in the parties involved. The struggle for economic or natural resources was most often irrelevant, and xenophobia, though disturbing, lacked intensity compared with racism.

6. In his view, the major characteristic of racism and racial hatred was the victim's almost complete innocence. There was usually no provocation, demand or reaction on the part of the victim, but his mere existence was enough to kindle racial hatred in the racist. Racial hatred was not an ordinary anger

directed at someone who at least remotely deserved it. It did not consist only of a feeling of superiority towards the victim, and racism was not found all over the world but only in certain areas where people felt that their civilization was more humane, and better, culturally, religiously and technologically speaking, than others.

7. Racial hatred went far beyond that feeling of superiority and conceived of the victim not only as inferior but as evil. Why did one part of mankind apportion good to itself and evil to others? Psychologists held that under crisis conditions human beings or groups projected their feelings of guilt or sin on to others. If that were so, then victims were subjected to racial hatred because involuntarily they embodied the evil aspects of the racist.

8. The question arose as to why certain cultures bred feelings of guilt more than others and why a certain kind of victim was chosen.

9. Racism was a grave pathological phenomenon, and should not be confused with other, similar abuses. While its nature was not fully known, the remedy could not be found through standard-setting or education. It must not be explained away by false causes which could lead to its being condoned. Racism contaminated the whole of society in varying degrees. If migrant workers were chosen as victims of racism, their country of origin and nation became the target of racial hatred: hence the myriad prejudices and allegations against them.

10. Since racial hatred could sometimes be unconscious there might be an unconscious urge to uphold human rights, albeit as a defence mechanism. There was a need to be aware of the complexities and confusion in the subject.

11. Mrs. FERRIOL (Observer for Cuba) said that, unfortunately, racist and discriminatory practices were a feature of everyday life throughout the world.

12. Apartheid, however, continued to be the most serious problem. The reforms adopted by the Government of South Africa were formal rather than substantive, and much still had to be done before the legal basis of apartheid was abolished and the discriminatory practices of the white minority against the black majority came to an end. It was essential that the black population of South Africa should have the right to vote.

13. The system of apartheid in South Africa would have been impossible without the political and military support over the years of the capitalist Powers, in particular the United States of America, and the vast investments of big business which, together with the racist South Africans, had exploited the black population and despoiled the natural resources of Namibia. The removal of economic sanctions by the United States of America had revealed the true motives of the Government of that country with respect to the racist policy of the South African Government.

14. Mr. Khalifa's excellent report (E.CN.4/Sub.2/1991/13 and Add.1) revealed the continuing collaboration of some Western Governments with the apartheid regime, in flagrant violation of the resolutions of the United Nations. Her delegation appreciated the Special Rapporteur's work and considered that his mandate should be extended.

15. Cuba, deeply committed to the cause of the people of South Africa, continued to support the African National Congress and the efforts of the international community to eradicate the abhorrent apartheid regime. It maintained no diplomatic, consular, economic, financial, military or other relations with the South African regime, believing that political and diplomatic isola' on and economic sanctions were an important deterrent.

16. If sanctions had been applied earlier, as advocated by various countries, and with the same promptness as recent Security Council sanctions, the total dismantling of the apartheid system could have started years ago.

17. The problems related to migrant workers and aliens had increased in recent years, particularly in Western countries, where the Governments faced the problem of seeking an open-door policy elsewhere in the world in order to establish outlets for trade and investment, while meeting increasing resistance at home towards the arrival of aliens for economic, social and political reasons and towards those aliens already settled in their countries.

18. The current manifestations of racial discrimination against indigenous populations were the result of a historical process of conquest and marginalization. The conditions necessary for indigenous peoples to maintain their own way of life, their language and culture, had been gradually destroyed, while they were excluded from participating in the political, economic and social life of the society where they had been born and where they lived. Considerable progress had been made in particular by the Working Group on Indigenous Populations of the Sub-Commission in recognizing the rights of those people. Moreover, real or sometimes imagined discrimination was increasing against ethnic, religious, linguistic and other minorities which were either excluded from society or assimilated and their group characteristics annihilated.

19. The resurgence of racist, discriminatory, intolerant and chauvinistic attitudes towards human groups throughout the world needed the attention of the Sub-Commission and other bodies, and her delegation considered it necessary that an overview of such trends should be prepared, as requested in Sub-Commission resolution 1990/2. It was unfortunate that the Secretary-General had been unable to prepare such an overview for the reasons that had been explained.

20. Mrs. Bautista took the Chair.

21. Mr. IBANGA UDOH (Observer for Nigeria) thanked Mr. Khalifa for his comprehensively updated report (E/CN.4/Sub.2/1991/13 and Add.1) and for his eloquent presentation of it.

22. The international community seemed unable to deal with apartheid. The fact that immediate action had been taken to counter the danger in the Gulf demonstrated the hypocrisy of the international community which condemned apartheid and yet did nothing drastic to end it.

23. Apartheid could not survive unless it was nurtured and sustained. The conclusion to be drawn from the hasty lifting of sanctions against South Africa was that when there was a choice between the dollar and the black human life, the natural choice was the former.

24. Mr. Khalifa's report showed how multinational corporations had been operating over the years to prop up the apartheid regime. As long as they did so there would be no end to apartheid. It was unfortunate that many countries had rushed to lift sanctions against South Africa and were urging others to do so, using the recent superficial changes in that country to do what they had been considering for some itme.

25. While acknowledging the changes in South Africa in the past two years, his Government believed that most of them were calculated and cosmetic. As a result of the repeal of the Land Act, how many black Africans could buy land because they had the freedom to do so? The solution to apartheid was not a piecemeal repeal of isolated acts, but a new constitution to enfranchise the blacks, to give every person a vote and guarantee the freedom of all citizens irrespective of race. Apartheid could not be reformed: it must be abolished. There was nothing that could not be undone while the white minority monopolized political power and denied consititutional rights to the black majority.

26. The relaxation of sanctions would not lead to the abolition of apartheid, but would rather give it new strength, rewarding the apartheid regime for trying to undo what it ought not to have done in the first place.

27. It was a false argument that sanctions harmed the blacks more than the whites. It was not sanctions that had impoverished the black South Africans and made them outcasts in their own home. It was apartheid that had made them incapable of contributing to the economic and social well-being of their country and had impoverished them. Those with vested economic interests in South Africa still advocated that further assistance should be given to the regime; but then the Government of South Africa would see no need to abolish apartheid.

28. Apartheid could not be uprooted overnight. The regime had not been honest enough in its attempt to change the system. Recent events had shown that, while the South African Government was telling the world that its intentions were genuine, it was at the same time funding operations to portray the blacks as opponents of its positive moves.

29. His Government agreed with those who advocated the encouragement of positive forces and the discouragement of negative ones, but it might differ if encouragement meant assisting the regime through the lifting of sanctions. The African leaders who had met in Abuja, Nigeria, in May 1991 had perhaps understood the issue better. In the name of the Organization of African Unity, they had resolved that sanctions should be maintained but also to review the lifting of sanctions in the light of positive developments in South Africa. His Government believed that such developments should be nothing less than irreversible steps to effect political and constitutional changes in South Africa with a system of one person one vote and fundamental human freedoms granted to all citizens.

30. Mr. YOSHIKARA (Observer for Japan), making a statement equivalent to a right of reply, recalled that the representative of the World Council of Churches had referred to his Government's policy and the legal system for foreign workers in Japan.

31. The number of foreign workers not qualified to stay or to work in Japan but who did so was increasing because of the great economic difference between Japan and the neighbouring Asian countries and the serious shortage of labour in some domestic industries.

32. The human rights of foreign workers were safeguarded by various social security acts, including the Labour Standard Law, the Labour Safety and Sanitation Law, the Minimum Wages Law and the Workmen's Accident Compensation Insurance Law, which were designed to protect workers in Japan even if they were not qualified to stay or work there.

33. Consultations on the protection of the human rights of foreign workers were held at local and national level regardless of whether a worker's residence status was legal or not.

34. None the less, foreign workers not qualified to stay or work in Japan hesitated to exercise their rights for fear of being reported to the immigration authorities and deported home. However the Labour Standards Bureau of the Ministry of Labour and the Legal Affairs Bureau of the Ministry of Justice were open for consultation by foreign workers including those not qualified to stay or work in Japan. Appropriate guidance was given to such workers in regard to non-payment of wages, compensation for labour accidents, procedures for extending their period of stay and so on. Even if the bureaux were aware of the legal status of those consulting them, as a matter of principle they did not report the fact to the Immigration Bureau.

35. Moreover, the Immigration Bureau itself tried to protect the human rights of foreign workers. If any problem such as the non-payment of wages or labour accidents were revealed in the process of deportation, the Bureau communicated the fact to related authorities such as the Labour Standards Bureau and helped them to solve the problem.

36. Brokers and employers exploiting foreign workers were the main cause of the violations of the human rights of foreign workers. The police and the Immigration Bureau in Japan were attempting to prevent exploitation and inhumane treatment by enforcing all the relevant laws to combat prostitution and the forced labour of foreign workers. New provisions had recently been enacted in the Immigration Law to prohibit activities by brokers and employers promoting the illegal labour of foreigners.

37. The Government of Japan had given careful consideration to the protection of human rights of foreign workers and wished to exchange views on the subject with others, including European countries which had similar problems.

38. Mr. PACE (Centre for Human Rights) recalled that at the 6th meeting of the Sub-Commission on 7 August 1991, Mr. van Boven had requested the Under-Secretary-General for Human Rights, in his capacity as coordinator of the Second Decade to Combat Racism and Racial Discrimination, to give additional information on document E/CN.4/Sub.2/1991/11, and in particular on part 2 entitled "Monitoring apartheid in transition".

39. The document had been prepared pursuant to a specific request by the Sub-Commission in resolution 1990/1 to the Secretary-General to consider ways and means necessary to respond to urgent situations and new trends involving racism and racial discrimination in any part of the world and to prepare an outline, for consideration by the Sub-Commission, for possible activities for increasing the effectiveness of United Nations action to combat racism and racial discrimination, reflecting the principles contained in that resolution.

40. The document in question consequently addressed contemporary forms of racism and racial discrimination in paragraph 10 and the question of apartheid in transition in paragraph 11.

41. It would be appreciated that at that stage such suggestions were necessarily preliminary and explanatory. They were intended to stimulate and facilitate discussions on ways and means of responding to new trends and developments in the fight against racism and racial discrimination and in particular on the role of the Sub-Commission as the expert body in the system of prevention of discrimination and in the overall efforts of the United Nations in that field.

42. In preparing the document, a number of sources had been used including the study by Mr. Eide (E/CN.4/Sub.2/1989/8 and Add.1), the reports of the Seminar on cultural dialogue between the countries of origin and the host countries of migrant workers held in 1989 in Athens, the Seminar on the political, historical, economic, social and cultural factors contributing to racism, racial discrimination and apartheid held in Geneva in December 1990, as well as other relevant documents of the General Assembly, the Economic and Social Council and the Commission on Human Rights. The results of an inter-agency meeting organized by the Under-Secretary-General for Human Rights in his capacity as coordinator of the Second Decade on the common efforts of the United Nations system to implement the Second Decade had also been taken into account.

43. The situation in South Africa had been of major concern to the United Nations almost since its inception, and it was no less so today as attempts were made to abolish apartheid and bring about a united, non-racial and democratic country. In his statement of 3 June 1991 to the Heads of State and Government of the Organization of African Unity, the Secretary-General had said that it was encouraging to note that the tremendous sacrifices made by Africa's black majority were beginning to bear fruit in South Africa and that efforts must continue and be increased. A historic opportunity was available in South Africa and it should be seized.

44. The latest initiative by South Africa's President and the political judgement and foresight shown by black leaders gave reason to believe that, despite the set-backs and obstacles, the advent of a new South Africa would become a reality in the near future. As always, the organizations and agencies of the United Nations system stood ready to provide assistance within their spheres of competence - for instance, in dealing with the return of exiles.

45. The process which had begun in South Africa would be difficult and complex. A number of obstacles remained to be overcome, of which intercommunal violence and release of all political prisoners were but two examples. All

the parties must do everything in their power to put an end to such a state of affairs. It was, however, particularly incumbent on the South African authorities to ensure that the security forces performed their functions absolutely impartially. It was in the spirit of that statement by the Secretary-General that the Secretariat had sought to stimulate reflection by the Sub-Commission.

46. For many years the Sub-Commission had been monitoring the human rights situation in South Africa through Mr. Khalifa's reports and its general debate on racial discrimination and the implementation of the Decades. Members of the Sub-Commission had been participating in meetings or seminars on the political development processes in South Africa. Through that accumulated knowledge and experience, the Sub-Commission was well equipped to provide the forum for thought and reflection to strengthen the promotion and protection of human rights in the transitional period of apartheid. The very nature of the Sub-Commission as a body of independent experts might provide a particular opportunity, in cooperation with other forums concerned, to give assistance and advice to those who might request it in their endeavours to bring an end to apartheid, not only in law but also in fact.

47. As far as the banking arrangements at the Palais des Nations were concerned, he wished to report that at a meeting held in October 1988 between the United Nations Office at Geneva and Lloyds Bank, Lloyds had informed UNOG of its difficulties in continuing to serve as the latter's main banker. Pending further deliberation and a final decision by its Headquarters, Lloyds had suggested that UNOG should begin to look around for alternatives. Lloyds had later indicated its decision to close its UNOG operations.

48. Upon learning of Lloyds' intentions, UNOG had begun to look into alternatives. It had studied the experience of other organizations, including ILO's search for an alternative banker to UBS. No bank had been able to respond favourably to ILO for a variety of reasons, including limitations in their authorized scope of operation within Switzerland. In view of United Nations policies with regard to South Africa, the Director General had given the instruction that none of the four largest Swiss banks or any blacklisted bank should be approached. Other banks had been approached. From all those contacts, only one small local bank not identified in any list related to the South Africa question had shown interest in providing banking services to UNOG. After preliminary discussions in 1989, a "shopping list" of UNOG's banking requirements had been discussed at that bank's headquarters. Later, after more than a month's deliberation, the bank had informed UNOG that it was not in a position to provide the banking services required. After the failure of the discussions with that bank, UNOG had identified, in September 1989, another local bank also not included in the lists relating to South Africa, as a possible prospect. The discussions with that bank had not been fruitful.

49. In its letter of 30 July 1990, Lloyds Bank had stated that it would discontinue its services to UNOG by the end of 1990. In the light of that deadline, UNOG, having no viable options left, had decided to bring Headquarters' attention to the distinct possibility that it would not have a bank at the Palais in 1991. Headquarters had indicated that in the light of the need to ensure that UNOG had banking services on 1 January 1991, the

search should be pursued, without further delay, among Swiss banks, including the three largest. UNOG had contacted specialized agencies in Geneva to inquire about their banking arrangements and had ascertained that Société de Banque Suisse (SBS) was the main banker for all the agencies contacted, except for one. Faced with the prospect of having no banking service as of 1 July 1991, UNOG had requested Headquarters for an exception to be made to enable it to deal with a large Swiss bank, if only at the minimum required level of business - salary, vendors and other day-to-day payments. Upon the recommendation of the Committee on Contracts at Headquarters, a waiver had been granted and consequently an agreement had been reached with SBS.

50 Mrs. ATTAH said that, while she appreciated the reply, she was very disappointed at the state of affairs that it revealed. She hoped that the Secretariat would continue to seek some other Swiss bank that had not been so heavily involved in breaking the sanctions against South Africa.

51. Mr. van BOVEN said that it was his understanding that there were at least two banks in Geneva, the Caisse d'épargne and the Banque cantonale, that did not have special ties with South Africa.

52. Mr. KHALIFA said that he had been very sad to note the presence of the Société de Banque Suisse in the Palais des Nations. It seemed that the Secretariat had been acting under some kind of force majeure. He wished to know the duration of the contract signed with the Société de Banque Suisse and whether the Secretariat was pursuing the search for another bank.

53. Mr. PACE (Centre for Human Rights) said that inquiries would be made about the points raised and he would report back to the Sub-Commission with the appropriate information.

54. The CHAIRMAN said that the Sub-Commission had concluded its discussion of item 5.

ELIMINATION OF ALL FORMS OF INTOLERANCE AND OF DISCRIMINATION BASED ON RELIGION OR BELIEF (agenda item 13) (E/CN.4/1991/56; E/CN.4/Sub.2/1989/32)

55. Mr. KEILAU (Centre for Human Rights) recalled that the item had been considered by the Sub-Commission since 1983, the Commission on Human Rights having requested the Sub-Commission to undertake a comprehensive and thorough study of the current dimensions of the problems of intolerance and of discrimination on grounds of religion or belief, using as terms of reference the text of the Declaration on the Elimination of All Forms of Intolerance and of Discrimination Based on Religion or Belief. In 1985, the Sub-Commission had decided to consider the item biennially. At its forty-first session the Sub-Commission had considered a working paper (E/CN.4/Sub.2/1989/32) prepared by Mr. van Boven containing a compilation of provisions relevant to the elimination of intolerance and discrimination based on religion or belief and examining the issues and factors which should be considered before any drafting of a further binding international instrument took place.

56. The Sub-Commission's attention was also drawn to the latest report of the Special Rapporteur of the Commission on Human Rights, Mr. Vidal d'Almeida Ribeiro, contained in document E/CN.4/1991/56.

57. The Sub-Commission might further wish to take into account General Assembly resolution 45/136 and Commission on Human Rights resolution 1991/48.

58. Mr. GUISSE said that everything that man received from God was a source of peace, understanding and tolerance. All religions taught love and fraternity. Although in many countries several religions coexisted harmoniously, that was not the case in others, where religions had been transformed into rival armed groups which massacred one another. Even the wearing of religious insignia was sometimes considered to be a provocation.

59. At the present time discriminatory practices based on religion were often confused with discriminatory practices based on race, especially in countries where there was much immigration. To distinguish between the two types of discrimination was difficult, but in any event the result was the same. The world seemed to be heading for a period in which men would be obliged to practise their religion in secrecy, and many groups of human beings went in fear of religious or ethnic persecution. In his report (E/CN.4/1991/56) Mr. Vidal d'Almeida Ribeiro had supplied the replies given by some States to his questionnaire; unfortunately, many States, including States in which discrimination based on religion occurred, had not replied. The Sub-Commission should therefore help the Special Rapporteur with his work by appealing to all Governments to take part in the dialogue. Discrimination based on religion was increasing in the world, and a large-scale educational programme needed to be undertaken to counter it.

60. Mr. SACHAR said that the item under consideration was extremely important, since the population of every country included different religious denominations. There was always a temptation for the major religious group to fashion the State in terms of its own beliefs. The population of India had included followers of many major religions for centuries. Hinduism was the dominant religion, but there was no feeling of dominance. The country's Constitution provided for freedom of religion and the right of every religious or linguistic minority to set up and manage its own schools. At one time an attempt had been made to ensure that a government representative sat on the boards of management of such schools, but the Supreme Court had declared such an arrangement to be inadmissable because it would constitute interference in the affairs of the schools. An attempt had also been made to cut off the large subsidies which the Government provided to religious minority schools, but that, too, had been struck down by the courts.

61. Religious intolerance was a violation of human rights. There were outbreaks of religious strife in India, but they nearly always arose suddenly. In the case of a communication that had been dealt with by the Commission on Human Rights, it had been found that although the police had committed excesses, those excesses had had no connection with religious discrimination, which was a punishable offence.

62. Mr. van BOVEN said that since 1989, when the Sub-Commission had last considered the item under discussion, major developments had occurred having an important bearing on the life and the relationships between people of diverse religions or beliefs. In the report (E/CN.4/1991/56) which the Special Rapporteur, Mr. Vidal d'Almeida Ribeiro had submitted in January 1991

to the Commission on Human Rights, he had referred to disturbing developments, stating that in recent years there had been an emergence of sectarian and intransigent attitudes regarding religious matters and observing that the phenomenon had not only affected the freedoms and rights of minority communities in the countries where such discrimination occurred, but that it had also become a destabilizing factor in the international system and a source of tension and conflict between States. On the other hand, the Special Rapporteur had expressed his satisfaction with the positive impact of the policy of openness and transparency in the area of religious freedom and manifestations of worship in Eastern Europe.

63. Religious revivalism was on the increase. In many parts of the world, religion, and particularly religious revivalism, had a predominant impact on social and political life. The phenomenon constituted a challenge to the very basis of human rights and to the notion of pluralism which was so essential to them. In the name of religion many people were subjected to violence and brutality with immense suffering. Fundamentalist leaders of various religions and confessions attached an exclusivist character to particular religious or ethnic communities and put "outsiders" in an inferior position. Such leaders claimed that whenever a conflict arose between internationally recognized human rights and the prescriptions of a religion or belief, the latter would prevail. That position defied the concept of the universality of human rights which underlay the whole movement for their promotion and protection, as embodied in the Charter of the United Nations and in international human rights instruments. Religious revivalism and its inherent danger to human rights gave added importance to the norms and values enshrined in the Declaration on the Elimination of All Forms of Intolerance and of Discrimination Based on Religion or Belief, the preamble to which stressed the need to promote understanding, tolerance and respect in matters relating to freedom of religion or belief and to prevent the use of religion or belief for ends inconsistent with the Charter of the United Nations and the Declaration.

64. Various parts of the world were also witnessing an emergence or a revival of nationalism. In many societies sentiments of nationalism were bolstered by religious factors. Nationalism was not a negative phenomenon in itself, since belonging to a nation and the sense of having a national identity were important values which people in their respective societies were supposed to share and to appreciate. When, however, nationalism produced feelings of superiority and exclusivism and when the religious factor as a component of nationalism strengthened such feelings, manifestations of national and religious intolerance and discrimination would abound. People belonging to minority groups were seriously affected in such situations, which might also represent a destabilizing factor in international relations and cause tensions and conflict between States. Moreover, the violation or failure to respect the religious rights of minorities - and in some societies where a minority represented the dominating power, the rights of the majority - often led to the infringement of other human rights such as the right to life, to physical integrity, liberty and security of the person, freedom of movement and freedom of opinion and expression.

65. It was clear that the prevention and resolution of conflicts, regardless of whether they were of national or international character, was a major and primary responsibility of Governments and intergovermental organizations,

notably the United Nations. However, an effective peace strategy was also dependent upon the active support and cooperation of other sectors of national and international society. In that respect an instrumental role could be played by religious organizations, religious institutions and religious communities. Against that background, it was proper to endorse strongly the recommendations formulated by the United Nations seminar on the encouragement of understanding, tolerance and respect in matters relating to freedom of religion or belief, held from 3-14 December 1984, in particular the recommendation that stated: "Religious bodies and groups at every level have a role to play in the promotion and protection of religious freedoms or beliefs. They should foster the spirit of tolerance within their ranks and between religions or beliefs. Inter-faith dialogue based on the Declaration on the Elimination of All Forms of Intolerance and of Discrimination Based on Religion or Belief should be pursued at all levels." (ST/HR/SER.A/16, para. 102 (h)).

66. In recent years there had been extensive discussions in the Sub-Commission and the Commission on Human Rights on whether the Declaration on the Elimination of All Forms of Intolerance and of Discrimination Based on Religion or Belief should be followed up by a binding instrument. In the working paper (E/CN.4/Sub.2/1989/32) he had presented to the Sub-Commission in 1989, he had advised a cautious approach and pleaded for solid preparatory work on the basis of sound research and careful analysis if it was decided to draft such a binding instrument. He had also pointed out that any drafting process should be accompanied by consultation and dialogue among interested groups, organizations and movements from across a broad socio-political and religious spectrum. It was his strong view that the complexity of the subject matter and the potentially devisive phenomena of religious prejudice and intolerance warranted a great deal of diligence and wisdom. In addition, the issue of implementation merited further thought and reflection in the light of long-term approaches and solutions. He agreed with the recent conclusion reached by the persons chairing human rights treaty bodies and put forward in their third report (A/45/636) to the United Nations General Assembly on the effective implementation of United Nations instruments on human rights and effective functioning of bodies established pursuant to such instruments: "As far as possible and appropriate, the supervision of new human rights treaty obligations should be entrusted to one or other of the existing treaty bodies. Similarly, careful consideration should always be given to the drafting of protocols to existing instruments in preference to entirely new treaties, wherever appropriate." (para. 61). He therefore believed that if it were decided to draw up a new binding international instrument on freedom of religion or belief, preference should be given to a new protocol additional to the International Covenant on Civil and Political Rights. He also considered that the Sub-Commission should not be precipitous and should wait until the Human Rights Committee completed the formulation of its general comments on article 18 of the Covenant.

67. Finally, in connection with freedom of religion or belief two factors had always to be taken into account. First, the exercise of religious liberty involved other human rights. Second, there were many situations where religious discord, religious tension and religious conflict virtually escaped the domain of governmental control, and where non-State actors with religious or non-religious affiliations made use of religious divisions and antagonisms

to pursue their own ends. In his report the previous year (E/CN.4/1990/46), the Special Rapporteur had said in that regard: "While intolerance may in some cases be the result of a deliberate policy on the part of Governments, it may also frequently derive from economic, social or cultural tensions, and take the form of acts of hostility or conflicts between different groups. Behind phenomena of intolerance may also be found certain dogmatic interpretations which stir up misunderstandings or hatred between different religious communities or encourage dissension within them." (para. 13). Bearing that statement in mind, it was necessary to plead for a broader approach and a more comprehensive strategy than the traditional United Nations method of involving Governments. Perhaps more than in any other matter the building of understanding, respect and tolerance between people of different religions required efforts on the part of the non-governmental sector, in particular communities and groups based on religion or belief.

68. In his working paper to the Sub-Commission in 1989 he had given particular weight to inter-faith dialogue and to the efforts of all concerned - member States, intergovernmental and non-governmental organizations, including movements, groups, associations and institutions based on religion or belief - to launch broad and intensive programmes of communication and education within constituencies as well as across national, religious and other boundaries. In the light of that approach, Sub-Commission resolution 1989/23 had recommended that a seminar should be organized within the United Nations programme in the field of human rights, on the interrelationship between the enjoyment of the right to freedom of thought, conscience, religion and belief and the other human rights and fundamental freedoms, taking into account the work carried out by CERD and the Human Rights Committee in that field. The Sub-Commission had also recommended that consideration should be given to organizing, in cooperation with UNESCO, the United Nations University, other interested intergovernmental and non-governmental organizations as well as academic and research institutions, a global consultation on the positions and approaches of different religions and beliefs to human rights and fundamental freedoms. Sometimes the Commission followed up the Sub-Commission's recommendation; at other times it did not. In the present case, the Commission had not provided any follow-up. Nevertheless, the recommendations which the Sub-Commission had made two years before were still valid and perhaps more so. He believed that the Sub-Commission should repeat them.

69. Mrs. WARZAZI recalled that the respect for the right of each individual to freedom of religion and the practising of its precepts had been given particular attention by the international community since the Universal Declaration of Human Rights. The drafting of a specific declaration for the protection of persons practising a religion or holding a belief had involved long discussions and negotiations, and often delaying tactics; but the Declaration had finally been adopted in 1981 under the impetus given by the Netherlands, although it was fair to say that her own country had played an extremely important role in facilitating the consensus to adopt that Declaration.

70. Since then, several initiatives have been taken, greatly facilitated by the turn taken by international events. At present, the attitude of the leaders of some countries had changed with regard to religion, and consequently

churches, mosques, monasteries and temples had been re-opened and the followers of those religions were free to worship. Nevertheless, it had to be admitted that in other countries religious minorities were still subject to persecution and even to massacres, as was the case of thousands of Muslims, and that countries were shaken by religious conflicts and bloody clashes, encouraged by parties for different reasons.

71. The Declaration that had finally been adopted was aimed at protecting persons practising a religion or holding a belief against intolerance by Governments or by groups or communities professing another religion or belief. Thus, up to the present, attention had been focused on the dangers of that intolerance incompatible with the norms of human rights. However, the practice of some religions was at present assuming a particularly dangerous dimension, since, owing to their fanaticism, accompanied sometimes by political aims, they appeared particularly intolerant, not towards outsiders but towards their own followers. Hence there arose situations of intolerable violence which those religions themselves vigorously condemned, for the final aim of every religion was tolerance; it was a means of ensuring peace and safety for all those who had recourse to it and to make brotherhood and the love of one's neighbour prevail.

72. As Mr. van Boven had pointed out, such religious violence could be the source of conflicts with neighbouring or other countries affected by the establishment of religious regimes sharply departing from the sacred principle of tolerance and love of one's neighbour. Consequently, the attention of the international community and more particularly that of the Special Rapporteur of the Commission on Human Rights should be drawn to the phenomenon of fanaticism which did not even respect places of worship which might be the subject of a special study to determine its causes and the ways to meet that new threat to human rights, and notably the threat to the security and the life of worshippers.

73. Mr. EIDE said that he had been somewhat disturbed by the statement made by the observer for Turkey under agenda item 5 that racism occurred not throughout the world but in certain parts of the world where people felt that their civilization was culturally, religiously, and technologically incomparably better than others, the implication apparently being that racism was a problem of the West and that because of that racism there was a tendency to associate evils with the other parts of the world and that the human rights preoccupation in the West with regard to what was happening in the other parts of the world might be implicitly part of that latent racism. That had not been stated explicitly but he was concerned that that might have been the implication.

74. He agreed entirely that racism in the strict sense of the word had emerged in Europe; however, a clear distinction did not exist between racism, religious intolerance, xenophobia and other manifestations. Anti-Semitism, for instance, had at some stage been religious discrimination and at a later stage had been racial discrimination. Jews had been subject to religious persecution in Spain, but had been accepted if they converted to Christianity. For Hitler, however, the question had been one of race. The definition changed, but the persecution still occurred. With regard to religious intolerance, in the past the West had had very serious problems, for example,

witch-hunts and the wars between different religious groups. A struggle was going on within the so-called superior culture, with a resurgence of intolerance and xenophobia, based on the idea not necessarily of racial superiority but of preserving one's own culture against the presence and participation of other cultures. It also had to be recognized that the struggle was going on in Western and other societies. Mr. Sachar had described the efforts made in India to prevent the State from becoming the repository of one particular religion, and to find ways instead for different religions to exist without any one of them imposing its precepts on the others. What to him was particularly disturbing were cases where changing one's religion carried a risk of the death penalty: at the present stage of human civilization he found it incomprehensible that such legislation could exist. Wherever a State was a repository of one religion, problems existed. In 1814 in Norway, after the adoption of a fairly liberal Constitution, Jews had been prohibited from entering Norway and it had taken 50 years to change that part of the Constitution. There were other provisions of religious discrimination that had not been eliminated until 1956, in connection with Norway's accession to the European Convention on Human Rights.

75. The problem existed everywhere and it was better not to try to escape analysis of it by assuming that criticism came from one part of the world and was directed against other parts. There was a joint struggle to make religions appeal to the private conscience of human beings; when religion was imposed upon others and dictated their behaviour, that went beyond the function and purpose of religion and a serious human rights problem arose.

76. He therefore strongly supported Mr. van Boven's suggestion that the proposals made to the Commission by the Sub-Commission two years earlier in resolution 1989/23 should be reiterated. Above all, a dialogue was needed between the different religions in the world to find a common platform. Otherwise, religions would become a vehicle for different purposes, including nationalist and xenophobic attitudes for East-West and North-South confrontations.

77. Mr. Joinet resumed the Chair.

78. Mrs. ATTAH observed that, although the constitutions of most member States protected the freedom of worship, few countries had answered the questionnaire requesting information on the practice of freedom of worship, and those that had done so had found it difficult to give explanations. That was natural, since so many complex issues were involved in the practice of religious freedom. She agreed with Mr. Eide that every country experienced the problem to some degree: for example in a Christian country where Catholicism was the dominant religion there might be barriers against Protestants, and vice versa.

79. The new trends in religious intolerance had nothing to do with religion per se, since all major religions preached peace and love; she believed that those trends had political connotations. Attempts were being made in many countries to manipulate the religious feelings of people for political ends. Her own Government was very much aware of that problem and was doing all it could to prevent it.

80. There was also a new trend of extremists in all religions who interfered in other religions as well as their own, insisting that their own religion should be the State religion. Those extremists were even trying to influence children and young people. Anything that could be done to halt that new brand of intolerance would be very welcome. Religion was a matter close to everyone's heart, and people would defend their religious convictions at all costs; that led to human rights violations. She agreed with Mr. Sachar that the law enforcement agencies which used extreme methods in trying to put down unrest went too far. She also fully agreed with what Mr. van Boven had said about the ramifications of the question, which was an extremely serious one having nothing to do with true religion. On the question of additional instruments, she believed that there were already enough international instruments in existence; what might be needed was to implement them.

81. Mr. SADI said that until the modern era religions had given rise to the bloodiest wars. The revival of religion in the world thus brought the fear of bloody religious conflict. Religious intolerance was exacerbated in modern times by the fact that there were divisions within each religion; however, he found the argument that in many countries the priority given to religion prevented those countries from meeting their obligations under the international covenants and conventions to be unsound, because all religions had played an active role in the formulation and adoption of those international instruments. He himself belonged to the Muslim faith, which had often been accused of intolerance. In fact, intolerance was completely alien to his religion. Throughout the history of Islam, Islamic armies in their conquests had shown unprecedented tolerance; during their golden era many non-Christian communities had sought refuge within the Islamic world because they could not find tolerance elsewhere. During the first era of Islamic expansion, when the leader of the Islamic armies entered Jerusalem and he was invited to pray in the church, his reaction was to refrain from doing so out of respect, in order not to give his people a pretext for taking it over. That anecdote illustrated how deeply rooted tolerance was in Islam, contrary to contemporary impressions.

82. He hoped that all religions would have an enlightened revival and return to their true spirit. Mr. van Boven had referred to the promotion of an inter-faith dialogue and the convening of a seminar: inter-faith dialogue was urgently needed, but on a level much higher than that of a seminar. In view of the magnitude of the problem, there might be more than one special rapporteur: representatives of the three monotheistic religions might examine the problem. The inter-faith dialogue should begin at the rapporteur level; an international conference might be convened subsequently. As had been said, the solution lay in the minds and hearts of the people; they had to be educated from a very early age. It was necessary to start with the young and UNESCO and other international organizations might have a role to play in that process of education. In view of the fact that the problem was assuming ever greater proportions, he hoped that it would receive a higher priority in the future.

83. Mr. DEER (International Work Group for Indigenous Affairs) invited the Sub-Commission to consider the religious intolerance directed against indigenous peoples.

84. Indigenous peoples had a deep understanding of the spiritual relationship between themselves and mother earth. Their whole lives, social responsibility and political structures were intertwined with their spiritual beliefs. Western civilization had, however, degraded those spiritual beliefs to the extent that discrimination against them had been institutionalized.

85. The Mohawk people had for centuries carried out their own ceremonies, such as weddings, naming of children and burial of their dead. It had come to his organization's attention that Canada, through the province of Quebec, no longer recognized the religious rights of births and marriages of Mohawk people. That policy, which had started in October 1990, denied the rights of the children of Mohawk people who followed their traditional beliefs, to medical care, education and any other rights that were granted to other Mohawks who might be of Catholic, Protestant or other religious persuasions. Such an act of insensitivity by the Canadian Government and its timing could only be construed as retaliation for the resistance of the Mohawks to the development of a golf course on a Mohawk burial ground. Such action represented a clear attempt to undermine the cultural and spiritual values of the traditional people.

86. A year earlier, the attention of the Sub-Commission had been invited to a situation concerning the same issue between the police and armed forces in Canada on one hand and the Mohawk people on the other. That situation was a perfect example of the institutionalized racism which indigenous people faced on a day-to-day basis when it came to recognition of their religious beliefs and customs. Bearing in mind that 1993 would be the International Year for the World's Indigenous People, it was imperative that the Sub-Commission should take particular notice of occurrences of religious intolerance and take action to protect the religious rights of indigenous peoples.

87. Mr. ROSSI (International Association for the Defence of Religious Liberty), after expressing his organization's appreciation to the Sub-Commission for its outstanding contribution to the preparation and implementation of the 1981 Declaration on the Elimination of All Forms of Intolerance and of Discrimination Based on Religion or Belief, said that the tenth anniversary of the Declaration was an appropriate occasion to take note of the remarkable results which had been achieved. Hundreds of millions of persons previously persecuted for their religious beliefs were now able to enjoy freedom of conscience and religion. That was particularly the case in Eastern Europe, where most States had adopted or were on the point of adopting new legislation guaranteeing complete freedom of conscience and religion. Even Albania was drafting a new constitution which would guarantee that right.

88. Unfortunately, a number of States had taken no legislative action to grant freedom of religion and, worse still, others had adopted measures to place further limits on such religious freedom as might already exist. In 1983, Mauritania had adopted a new Penal Code, article 306 of which provided the death penalty for anyone who abandoned the religion followed by the majority of the population. In 1991, Sudan had stipulated the death penalty for the crime of apostasy against the State religion. Death was also the penalty prescribed for apostasy in Saudi Arabia.

89. In her report to the Sub-Commission (E/CN.4/Sub.2/1987/26), Mrs. Odio Benito had found that the provisions of the Universal Declaration of Human Rights, the International Covenant on Civil and Political Rights and the 1981 Declaration all had the same goal, namely, that every individual should have the right to abandon a religion or a belief and to adopt another or not to follow any religion.

90. The Human Rights Committee, in discussing the report of Sudan in July 1990, had agreed with that view and several members of the Committee had stated clearly that stipulation of the crime of apostasy, punishable by death, was a flagrant violation of article 18 of the International Covenant on Civil and Political Rights. His organization considered that the Sub-Commission should take a clear position on the issue and invite the attention of the Commission on Human Rights so that appropriate measures might be taken.

91. Prospects in that connection were not reassuring. On 5 August 1990, in Cairo, the Foreign Ministers of 45 States members of an international organization had adopted a declaration on human rights which would subordinate all those rights and freedoms to the provisions of a law referring specifically to their religion. In particular, that law stipulated the death penalty for apostasy.

92. It was a matter of urgency that the appropriate organs of the international community should clearly state that change of religion should not be considered as a crime, as it was a human right of all, and that the death penalty for its exercise was completely unacceptable. The Sub-Commission could not avoid involvement in the issue which concerned the conscience, dignity and very life of millions of people.

93. Mr. HAMERMAN (International Progress Organization) said that major human rights violations were currently taking place in the United States of America in respect of freedom of thought, conscience and association and against freedom to manifest belief, both in practice and teaching. Those abuses were occurring solely because certain beliefs had been targeted by the Government and power structures as politically "not correct" and the proponents of those beliefs had been vilified in the media and subjected to sustained government suppression.

94. The prime instance of United States Government persecution for purely philosophic beliefs centred on championing the rights of the developing sector, as distinguished from religious beliefs per se, was the complex of cases involving the American political prisoner Lyndon H. La Rouche Jr, whose case had been referred to by one of Europe's most distinguished authorities on international law as "the American Dreyfuss Affair". La Rouche was the founder of a broad-based philosophic and political association which had been attacked over a sustained period of time with the full force of government repression simply because those in power had found his beliefs to be a direct challenge to the delusion that a homogeneous new world order could be imposed from the top down.

95. La Rouche had been a political prisoner for over two and a half years. He had been imprisoned virtually simultaneously with the inauguration of President George Bush, his long-standing political adversary. Two of his

appeals to the United States Supreme Court - one on a habeas corpus writ and one on an appeal of his conviction - had been denied without him even being granted the right to present his case before that body. He was currently serving a 15-year sentence for matters which other nations would consider minor administrative or civil infractions.

96. Over the previous five years, 50 leaders of the La Rouche political movement across the United States had been indicted, of whom 18 had been convicted in trials which were in violation of international fair trial standards and 11 had been jailed for periods varying from between 25 and 77 years. In addition to those individuals, 5 companies which had published writings or expressed beliefs associated with La Rouche had been indicted. New Solidarity, a nationally distributed newspaper with a circulation of more than 150,000 copies per issue, had been seized by the Government in 1987 and shut down. An internationally respected scientific journal and association (Fusion Energy Foundation), with an American subscriber list of 100,000 alone, had had its offices padlocked and the journal banned by the Government four years earlier. Two publishing and distribution companies of literature promoting La Rouche's beliefs (Campaigner Publications and Caucus Distributors Inc.) which had published and circulated millions of copies of leaflets, pamphlets and books promoting third world development among Americans had had their offices seized, their presses stopped and their stocks of literature confiscated through an extraordinary government decree known as "forced bankruptcy". That had represented the first occasion in United States history when the Government had utilized such a mechanism against publishing and political entities. Moreover, in the same time period, the Government had forced a free political action committee, namely the National Democratic Policy Committee, to cease functioning by imposing a fine of $5 million on it. One individual who had contributed a substantial amount of money to promote La Rouche's beliefs, Mr. Lewis Dupont Smith, had been dragged into court and found to be mentally incompetent for holding those beliefs and barred by Court order from controlling his own finances or even marrying.

97. In his trial La Rouche and his associates had not been charged with overt philosophic and political crimes but convicted of State-created "economic crimes" which the Government itself had manufactured through the aforementioned bankruptcy. First, the Government had shut down the publishing firms through the unprecedented "involuntary bankruptcy" procedure. Then they had turned around and convicted La Rouche of failing to repay the debts of the companies, as well as hiding information from the Internal Revenue Service for the same unpayable money. Ten months after La Rouche's imprisonment, the "forced bankruptcy" action by the Government had been found by an independent court, headed by one of the most prominent bankruptcy judges in the country, to be an illegal action, done in bad faith by the Government and obtained by the Government by doing a "constructive fraud on the court". Nevertheless La Rouche remained in federal prison.

98. His organization had brought the case to the attention of the Commission on Human Rights at its forty-seventh session as a major instance of human rights violation through discrimination against a belief and, on 31 May 1991, had filed a petition with the Secretary-General under the 1503 procedure.

Subsequently hundreds of the world's most prominent and respected jurists, religious leaders, human rights experts and political figures had filed documentation with the Commission on Human Rights urging the United Nations to intervene. The expert documentation attesting to the importance of his organization's complaint had come from leaders of virtually every major legal and civil rights association in the United States; from religious leaders around the world; and over 100 senators and congressmen from seven different Latin American countries, while 10 United States congressmen, 7 United States senators and state legislators from five states had urged the Commission on Human Rights to take action in the case.

99. La Rouche's beliefs centred around three themes, namely: his promotion of science, technology and physical economic progress for the developing nations, including proposals for large-scale infrastructural and development projects for areas in Africa, Asia, the Middle East, Latin America and Eastern Europe which the international banking community had written off; his opposition to the "demographic political warfare" or "Malthusian genocide", which had been waged against the third world; and his opposition to the proliferation of a counter-culture and his promotion instead of a revival of classical culture which celebrated the sacred dignity of all men and women as equally the children of God.

100. The United States Government had recently declassified a series of National Security memoranda covering the period 1974-1977, in which it had declared the movement for a new world economic order to be a "national security" threat to the United States. The critical document was National Security Study Memorandum 200 on "The implications of worldwide population growth for United States security and overseas interest" which had been written in 1974 by national security advisors Henry Kissinger and Brent Scowcroft. One of the main concerns of that memorandum had been to check the spread of beliefs which encouraged a new world economic order with increasing population growth in the third world.

101. Mr. LACK (World Jewish Congress and Coordinating Board of Jewish Organizations) said that his organization noted with regret that no progress could be recorded in the evolution from the 1981 Declaration to a binding United Nations convention based on articles 18 of the Universal Declaration of Human Rights, the International Covenant on Civil and Political Rights and the 1981 Declaration itself. Both the Special Rapporteur of the Sub-Commission, Mrs. Odio Benito, in her study (E/CN.4/Sub.2/1991/26) submitted to the Sub-Commission in 1987 and the Special Rapporteur of the Commission on Human Rights, had urged States, bearing in mind the persistence of the problem of intolerance and discrimination based on religion or belief, to continue to recognize the importance of preparing a binding separate instrument on the elimination of those phenonema, based on the existing standards of international human rights law.

102. Recent documents of the Conference on Security and Cooperation in Europe expressed the clear determination of the States concerned to combat all forms of racial and ethnic hatred, anti-Semitism, xenophobia and discrimination against anyone, as well as persecution on religious or ideological grounds. Mr. van Boven's working paper (E/CN.4/Sub.2/1989/32) had set forth the issues and factors to be considered before any further standard-setting should be undertaken. His organization accepted that enumeration.

103. The gap between the standards set in article 18 of the International Covenant and the 1981 Declaration on the one hand, and the continuing unabated violation of those standards on the other, was growing at an alarming rate.

104. In his recent updated report (E/CN.4/Sub.2/1991/9) on the right to freedom of opinion and expression, Mr. Türk had analysed the legitimacy of restrictions on the freedom stipulated in article 19 of the International Covenant on Civil and Political Rights in circumstances where that freedom was abused for the purpose of inciting to discrimination and violence on grounds of race or ethnic origin in violation of article 4 of the Convention on the Elimination of All Forms of Racial Discrimination and article 20 of the International Covenant. Mr. Türk's analysis of decisions on communications under the Optional Protocol to the International Covenant on Civil and Political Rights reached by the Human Rights Committee, as well as under article 10 of the European Convention on Human Rights by the European Commission of Human Rights, notably those concerning incitement to religious hatred, left little doubt as to the validity of the restrictions on that right in such circumstances.

105. In his preliminary report on minorities (E/CN.4/Sub.2/1991/43), Mr. Eide had expressed hesitation about including religious minorities in his study because of the difficulty of separating ethnic from religious identification of minorities and the lack of clarity as to whether a given minority group's self-identification would be that of a religious, ethnic or national entity. In the case of the Soviet Union, for example, Jews had been classified as a nationality.

106. The new Soviet law on the freedom of conscience and religious organizations, adopted in October 1990, together with the law on the freedom of beliefs of 10 November 1990, enabled the conclusion to be reached that those texts, both from the standpoints of the Soviet Union's international obligations and by comparison with the standards of traditional democracies, could be considered as fully compatible with the requirement of current international standards. Unfortunately, the process of democratization in the Soviet Union had been accompanied by expressions of ethnic and religious hatred, including some of markedly anti-Semitic character, and the Soviet authorities should be encouraged by Mr. Türk's latest study to deal firmly with such abuses.

107. The report, dated 19 July 1991, by experts of the Conference on Security and Cooperation in Europe on national minorities, had stated that the participating States, concerned by the proliferation of acts of racial, ethnic and religious hatred, anti-Semitism, xenophobia and discrimination, had stressed their determination to condemn, on a continuing basis, such acts against anyone. Further, the 35 States had stated that they would take effective measures, including the adoption, in conformity with their constitutional law and their international obligations, if they had not already done so, of laws that would prohibit acts that constituted incitement to violence based on national, racial, ethnic or religious discrimination, hostility or hatred, including anti-Semitism, and policies to enforce such laws.

108. His organization respectfully submitted that the 35 States in question, as an expression of their resolve to fulfil their commitments, in particular their international obligations, would be well advised to commence drafting at the first opportunity, an appropriate and effective binding international instrument aimed at eliminating all forms of discrimination based on religion or belief.

The meeting rose at 1.10 p.m.